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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,248

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Stephen Mark Mueller

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EXAMINER

BRUCKART, BENJAMIN R

ART UNIT

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2446

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/628,248	<b>Applicant(s)</b> MUELLER ET AL.	
	<b>Examiner</b> BENJAMIN R. BRUCKART	<b>Art Unit</b> 2446	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,9,13-19 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,9,13-19 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **Detailed Action**

Claims 1, 3-5, 7, 9, 13-19, 22-24 are pending in this Office Action.

Claims 2, 6, 8, 10-12, 20-21 are cancelled.

Claims 1, 3, 7, 13, 16, 18, 19 are amended.

### **Response to Arguments**

Applicant's arguments filed in the amendment filed 11/24/08, have been fully considered but they are not persuasive. The reasons are set forth below.

### **Applicant's invention as claimed:**

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3-4, 9, 22; 13-14, 23; 16-17, 19, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al.**

Regarding claim 1, the Furlong reference teaches:

a system for providing a presence component in a telecommunications network in which a session to a session terminator is requested by a session initiator upon receiving an instruction

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from a user (Furlong: page 1, para 7 teaches presence information; page 8, para 94-96 shows third party users wanting to send messages to a subscriber), the system, comprising;

a presence server configured to receive a request for presence information from a requestor (Furlong: page 2, para 20; the PLAS; request for information para 21), which is configured to receive a session request from the session initiator and to generate the request for presence information (Furlong: page 2, para 24); processing the request by comparing the session initiator's identity to preferences of the session terminator and sending a preferred treatment dictated by the preferences to the requestor (Furlong: page 2, para 24; recipient identity; page 3, para 30; page 8, para 94-95);

a collector configured to collect information from the session initiator (Furlong: page 2, para 23; logging, tracking and accounting; or page 4, para 44);

wherein, based upon the preferred treatment dictated by the preferences of the session terminator, the session is initiated by accepting the session request (Furlong: page 3, para 30-32), rejected by rejecting the session request (Furlong: page 3, para 30-32), deferred by directing the session initiator to a message storage system, or engaged in a dynamic information collection mode wherein additional information is dynamically collected from the session initiator through an interactive voice response conversation, the additional information including at least one of a session subject, session urgency, or session type, the additional information then being used to determine if the session is initiated by accepting the session request, rejected by rejecting the session request, or deferred by directing the session initiator to a message storage system; and

wherein control and privacy of the session is given to the session terminator (Furlong: page 2, para 24; page 3, para 30-32).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the requestor.

The Pessi reference teaches a requestor (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47) and service logic for requesting session parameters from the session initiator (Pessi: page 5-6, para 51-52).

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It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention as taught by Furlong to include the requestor and session parameters as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 3, the system of claim 1, in which the session initiator further comprises a user agent client that forwards the request to the requestor (Furlong: page 8, para 96; wife sends request to the PLAS), and a call user agent client that initiates the session (Furlong: page 8, para 96; message is delivered).

Regarding claim 4, the system of claim 1, in which the session initiator further comprises a call user agent client that initiates the session and a trigger generator that generates a trigger message (Furlong: page 8, para 93).

Regarding claim 9, the system of claim 1, further comprising:

a session controller configured to control initiation of the session (Furlong: page 2, para 23-24).

Regarding claim 22, the system of claim 1, wherein the session can be initiated solely on a presence identity of the session terminator (Furlong: page 8, para 94; initiating the session based if the subscriber is present and available, if so, then sending the message).

Regarding claim 13, the Furlong reference teaches:

a system for providing a presence component in a wireless telecommunications network in which a session is requested by a mobile device (Furlong: page 1, para 7 teaches presence information; page 8, para 94-96 shows third party users wanting to send messages to a subscriber), the system comprising:

a presence server configured to receive the request for presence information (Furlong: page 2, para 20; the PLAS; request for information para 21) and to process the request by

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comparing the mobile device's identity to preferences of a session terminator and sending a preferred treatment dictated by the preferences to the requestor to set up the session (Furlong: page 2, para 24; page 8, para 94-95),

wherein, based upon the preferred treatment dictated by the preferences of the session terminator, the session is initiated by accepting the session request (Furlong: page 3, para 30-32), rejected by rejecting the session request (Furlong: page 3, para 30-32), deferred by directing the session initiator to a message storage system, or engaged in a dynamic information collection mode wherein additional information is dynamically collected from the session initiator through an interactive voice response conversation, the additional information including at least one of a session subject, session urgency, or session type, the additional information then being used to determine if the session is initiated by accepting the session request, rejected by rejecting the session request, or deferred by directing the session initiator to a message storage system; and

wherein control and privacy of the session is given to the session terminator (Furlong: page 2, para 24; page 3, para 30-32).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the requestor.

The Pessi reference teaches a requestor (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47) and service logic for requesting session parameters from the session initiator (Pessi: page 5-6, para 51-52).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention as taught by Furlong to include the requestor and session parameters as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 14, the system of claim 13, wherein the requestor resides in the wireless network, the requestor forwarding the session request, including the preferred session parameters to the presence server (Pessi: pages 4-5, para 45).

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Regarding claim 23, the system of claim 13, wherein the session can be initiated solely on a presence identity of the session terminator (Furlong: page 8, para 94; initiating the session based if the subscriber is present and available, if so, then sending the message).

Regarding claim 16, the Furlong reference teaches:

a method for incorporating presence into a telecommunications environment (Furlong: page 1, para 7 teaches presence information; page 2, para 19-20), the method comprising:

receiving a session request from a session initiator in response to a user instruction (Furlong: page 2, para 20; the PLAS; request for information para 21; page 8, para 96);

generating a request for presence information in response to the received session request (Furlong: page 2, para 20; page 8, para 96);

sending the request for presence information to a presence platform to obtain presence information for another telecommunications user (Furlong: page 2, para 20; the PLAS; request for information para 21);

receiving preferred treatment information from the presence platform (Furlong: page 8, para 94-95); and

determining the outcome of the session request (Furlong: page 8, para 94-96);

wherein, based upon the preferred treatment from the presence platform, the session is initiated by accepting the session request (Furlong: page 3, para 30-32), rejected by rejecting the session request (Furlong: page 3, para 30-32), deferred by directing the session initiator to a message storage system, or engaged in a dynamic information collection mode wherein additional information is dynamically collected from the session initiator through an interactive voice response conversation, the additional information including at least one of a session subject, session urgency, or session type, the additional information then being used to determine if the session is initiated by accepting the session request, rejected by rejecting the session request, or deferred by directing the session initiator to a message storage system; and

wherein control and privacy of the session is given to the session terminator (Furlong: page 2, para 24; page 3, para 30-32).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the presence platform.

The Pessi reference teaches a presence platform (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47) and preferred session parameters (Pessi: page 5-6, para 51-52).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention as taught by Furlong to include the requestor and session parameters as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 17, the method of claim 16, further comprising:

forwarding preferred session parameters to the presence platform (Furlong: page 8, para 93-95); and

determining the presence information based on the preferred session parameters (Furlong: page 8, para 93-95).

Regarding claim 19, the method of claim 16 and obtained presence information indicates that the session terminator is unavailable or busy (Pessi: page 5, para 49).

Regarding claim 24, the method of claim 16, wherein the session can be initiated solely on a presence identity of the other telecommunications user (Furlong: page 8, para 94; initiating the session based if the subscriber is present and available, if so, then sending the message).

**Claims 5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al in further view of U.S. Patent No. 20040131042 by Lillie et al.**

Regarding claim 5, the modified Furlong reference teaches the system of claim 4. The modified Furlong reference fails to state an INVITE message.



However, the Lillie reference teaches a session initiator initiates the session by sending an INVITE message to the session terminator based upon the preferred treatment (Lillie: page 1, para 9; page 3, para 34) in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include INVITE messages as taught by Lillie in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

Regarding claim 7, the modified Furlong reference teaches the system of claim 1. The modified Furlong reference fails to state an INVITE message.

However, the Lillie reference teaches a session initiation protocol proxy server including service logic that receives the session request from the session initiator (Lillie: page 4, para 42), wherein the session initiator protocol proxy server initiates the session by sending an INVITE message to the session terminator based upon the preferred treatment (Lillie: page 4, para 42) in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include INVITE messages as taught by Lillie in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

**Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al in further view of U.S. Patent No. 20040203644 by Lei et al.**

Regarding claim 15, the modified Furlong reference teaches the system of claim 14, in which the mobile device comprises:

- a user agent client receiving the session setup information from the requestor (Pessi: page 5, para 45-46); and

- a call user agent client that initiates the session based on the session set up information, which is received from the user agent client (Pessi: page 5, para 49).

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The modified Furlong reference fails to state prompting the user for information.

However, the Lei a user agent client that forwards the session request to the requestor and prompts a user to enter the preferred session parameters (Lei: page 4, para 45-47),

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include a prompting a user as taught by Lei in order to let a user decide whether it wants to establish a accept or reject a session request (Lei: page 4, para 47).

**Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable by unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al in further view of U.S. Patent No. 7123707 by Hiri et al.**

Regarding claim 18, the modified Furlong reference teaches the method of claim 16. The modified Furlong reference fails to teach voicemail.

However, the Hiri reference teaches obtained presence information comprises instructions to forward to voice mail (Hiri: col. 3, lines 30-60), and

in which the message storage system comprises voice mail (Hiri: col. 7, lines 47- col. 8, line 3) in order to communicate without interrupting a previous session (Hiri: col. 1, lines 45-57).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include voicemail as taught by Hiri in order to let the caller leave a message if a session isn't established and not interrupt current sessions (Hiri: col. 1, lines 45-57).

### **Remarks**

Applicant has made amendments to the claims and has argued the newly amended claim limitations.

#### **The Applicant Argues:**

The Furlong reference in view of Pessi reference do not teach the amended steps of deferring a message to a message storage system or engaging in a dynamic information collection mode.

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**In response**, the examiner respectfully submits:

While the amendment enters substantial subject matter with respect to deferring and collecting additional information, that subject matter is claimed in the alternative sense and is not required to be found. The Furlong reference teaches two of the four outcomes of session handling (acceptance and denying) as noted in applicant's remarks and because only one is needed to be found by the language of the claim, the claim is rejected.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 9:00-5:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin R Bruckart  
Examiner  
Art Unit 2146

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Examiner, Art Unit 2446